



SBA Procedural Notice

TO: All SBA Employees

CONTROL NO.: 5000-917

SUBJECT: Implementing the New SBA:
Streamlining Loan Servicing

EFFECTIVE: 4/15/2004

As part of a broader initiative to transform and streamline the Agency's processing, servicing, and liquidation functions, SBA has recently completed an analysis of the servicing actions currently performed by its Little Rock and Fresno Commercial Loan Servicing Centers (CLSC). From that analysis, the Agency has concluded that a substantial percentage of the CLSCs' servicing actions entail documenting or responding to actions that SBA has fully delegated to 7(a) lenders or Certified Development Companies (CDCs). As such, these actions should not require either a notification to or a response from SBA.

Pursuant to this notice, effective immediately, CLSCs will no longer review, acknowledge, stamp, notate or take any other servicing action on actions delegated to lenders/CDCs. This change to SBA internal procedure will allow SBA to more effectively and efficiently use existing resources in the CLSCs to process servicing actions that do require SBA review and approval.

SBA also has revised SOP 50 50 4, Chapter 4, ¶ 13 (p. 4-13) to make clear that Lenders and ALP-CDCs must not notify SBA or seek SBA approval on "non-substantial" servicing actions within a Lender/ALP CDC's unilateral authority, when they take such actions. Lenders may consult with SBA, about whether a proposed action is substantial or will confer a preference, by calling the CLSC responsible for overseeing servicing.

In addition, this notice reiterates current policy concerning which actions SBA has delegated to certain lenders/CDCs, and which lenders/CDCs have been granted unilateral authority to take certain actions.

Actions that Certain Lenders MUST Submit to SBA

Non-Delegated Actions Requiring SBA Approval

Before lenders may take certain servicing actions, they must obtain prior written approval by SBA. Other than those specific actions referenced below, SBA has delegated to such lenders all other servicing actions, pursuant to regulation, SOP, and supplemental loan guaranty agreements. *Such lenders must not submit these actions to SBA for review and/or approval.* However, they must document their loan files concerning the actions taken.

PLP Lenders or Lenders on LowDoc Loans

The following actions are not delegated to PLP Lenders or to Lenders on LowDoc loans:

1. Action that would confer a preference on the lender.
(13 CFR 120.453; SOP 50 50 4, Ch. 6, ¶5.c.(4)(a), p. 6-4 or ¶6.b.(2), p. 6-5)
2. Compromise with any obligor for less than the full outstanding principal loan balance.
(13 CFR 120.453; SOP 50 50 4, Ch. 6, ¶5.c.(4)(b), p. 6-4 or ¶6.b.(2), p. 6-5)
3. Release a guarantor if the loan is delinquent or liquidation is contemplated.

- (SOP 50 50 4, Ch. 6, ¶5.c.(4)(b), p. 6-4 or ¶6.b.(2), p. 6-5)
4. Title property in the name of SBA.
(SOP 50 50 4, Ch. 6, ¶5.c.(4)(c), p. 6-4 or ¶6.b.(2), p. 6-5)
5. Take title to environmentally impaired property.
(SOP 50 50 4, Ch. 6, ¶5.c.(4)(c), p. 6-4 or ¶6.b.(2), p. 6-5)
6. Transfer loan to another lender.
(SOP 50 50 4, Ch. 6, ¶5.c.(4)(d), p. 6-4 or ¶6.b.(2), p. 6-5)
7. Sell or pledge more than 90% of a loan.
(SOP 50 50 4, Ch. 6, ¶5.c.(4)(e), p. 6-4 or ¶6.b.(2), p. 6-5)
8. Change guaranty percentage.
(13 CFR 120.452(a)(3))
9. Emergency repurchase from secondary market.
(SOP 50 50 4, Ch. 8, ¶11.c., p. 8-6).
10. Handle non-routine (contested) litigation or litigation with legal costs over \$5,000.
(SOP 70 50, Ch. 6, ¶ 42 and 43, p. 61).

SBAExpress Lenders

The following actions are not delegated to SBAExpress lenders, pursuant to the SBAExpress Program Guide (10/1/02), ¶7.C (1), p. 29:

1. Action that would confer a preference on the lender.
2. Compromise with any obligor for less than the full outstanding principal loan balance.
3. Release a guarantor, even if actual demand has not yet been made.
4. Title property in the name of SBA
5. Take title to environmentally impaired property.
6. Transfer a loan to another lender.
7. Sell or pledge more than 90% of a loan.
8. Change guaranty percentage.
9. Repurchase from secondary market.
10. Handle non-routine (contested) litigation or litigation with legal costs over \$5,000.
11. Increase the principal amount of the loan.
12. Disburse a loan with primary collateral having significant potential environmental risks that are proposed to be minimized by a non-standard indemnification agreement.
13. Select firms owned by officers, directors, employees or 10% or more stockholders of the lender to provide care and preservation services, legal assistance, or other liquidation services.
14. Release collateral that will be subsequently pledged for a conventional loan from the lender or any entity owned in whole or in part by the lender's officers, directors, employees, or 10% or more shareholders.

Actions that Lenders/CDCs Should NOT Submit to SBA

Unilateral Actions by Lenders (Other Than PLP and SBAExpress Lenders) for LowDoc Loans and by ALP-CDCs

SBA has delegated to lenders other than PLP and SBAExpress lenders and for LowDoc loans, and to ALP-CDCs, the unilateral authority to take "non-substantial" servicing actions, including but not limited to the following actions, without SBA clearance or approval, but subject to the restrictions and requirements in SOP 50 50 4A, Chapter 4, paragraphs 12 and 13, pp. 4-12 – 4-19, and SBA Policy Notice 5000-882 (effect. 8/27/03). Consequently, *these lenders/CDCs should not send actions within their unilateral authority to SBA, and even if lender/CDCs do send documentation of such actions, SBA will no longer process, record or acknowledge such actions.*

1. Correct obvious typographical errors.
2. Provide payoff figures to borrowers.
3. Modify financial statement requirements.

4. Defer principal and/or interest payments.
5. Release collateral up to cumulative value of 20% of original loan amount.
6. Substitute collateral.
7. Subordinate to third party senior lien.
8. Change life or hazard insurance requirements.
9. Adjust loan installment amounts.
10. Make loans that do not adversely affect the collateral.
11. Approve change in borrower's form of organization.
12. Adjust management covenants.
13. Accept prepayments.
14. Extend initial disbursement period up to 6 months.

Note Regarding CDCs

Because SBA holds the loan and collateral documents for 504 loans, CDCs and ALP CDCs must prepare for SBA review and signature any necessary legal documents to effect a desired servicing action, even for unilateral servicing actions by ALP-CDCs. The CDC is responsible for maintaining a loan file with all appropriate documentation of servicing actions.

Actions by Lender/CDC That REQUIRE Notification to SBA

Actions that Require Notification to SBA (but not approval or response by SBA) For the following delegated/unilateral servicing actions, all lenders/CDCs must notify the CLSC when taking such actions because SBA must update SBA's accounting records and loans database to reflect the changes. However, SBA will not respond to the lender/CDC and will no longer process such actions other than by simply making the necessary changes to SBA's databases.

1. Loan cancellations.
2. Decreases in loan amount.
3. Changes of maturity.
4. Changes of business name and address.
5. Extensions of disbursement periods, and
6. Notice of prepayment.

Procedures for Subsidy Recoupment Fee Requests

Note Regarding Request for Waiver of Subsidy Recoupment Fee (Prepayment Fee)

CLSCs and field offices must refer such requests to the Office of Financial Assistance in Headquarters for final determination.

Questions regarding this notice should be directed to Jerry Garner, Office of Financial Assistance, at (202) 205-6488.

James E. Rivera
Associate Administrator
for Financial Assistance

Expires: 4/1/2005